

**Federal Defenders
OF NEW YORK, INC.**

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July 28, 2021

VIA ECF

The Honorable Kimba M. Wood
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: **United States v. Nurridin Witcher**
20 Cr 116 (KMW)

Dear Judge Wood:

Yesterday, the Government filed a second superseding indictment against our client, Nurridin Witcher for violating 18 U.S.C. 922(g)(1) and now 922(g)(8), under the new theory that Mr. Witcher was a prohibited person because at the time he allegedly possessed a firearm, he was subject to an order of protection. The Government also recently provided new discovery supporting its new charge.

This case was originally charged December 2019 under 922(g)(1), and the defense has from the outset argued that the Government will not be able to prove beyond a reasonable doubt that Mr. Witcher knew that he was a “felon” at the time he allegedly possessed the gun as required by statute and Supreme Court precedent. See Rehaif v. United States, 588 U.S. ___, 139 S.Ct. 2191 (2019). In January 2021, the Government superseded the original indictment because they realized that the case agent testified falsely under oath before the Grand Jury. At that time, the Government only charged Mr. Witcher under 922(g)(1), again. The Court set a trial date of September 20, 2021 in March of this year, and the defense has been diligently preparing to proceed.

As the Government likely realizes that it cannot prove all of the elements of its case under 922(g)(1) beyond a reasonable doubt, it now supersedes, adding 922(g)(8) less than two months before trial. The defense respectfully requests the Court

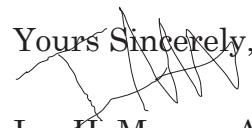
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adjourn the September trial to allow for new motions—the defense plans to submit both a motion to dismiss the new charge as well as a motion to sever the 922(g)(1) and 922(g)(8) charges into separate trials as the evidence on one will prejudice the evidence on the other.

**Granted
-KMW**

The defense respectfully requests 45 days to file its motions, with the Government consents to.

Yours Sincerely,


Ian H. Marcus Amelkin
Marisa K. Cabrera
Assistant Federal Defender
Federal Defenders of New York
Tel: (212) 417-8733

CC: Christy Slavik, AUSA (via ECF)

Trial in this case, currently scheduled to begin on September 20, 2021, is adjourned sine die. Defendant must file any motions in connection with the second superseding indictment by September 10, 2021. The Government's response is due by September 24, 2021. Defendant may file a reply by October 1, 2021.

Because defense counsel needs time to review discovery and prepare motions, the Court finds that an exclusion of time is in the interests of justice, and that such interests outweigh the interests of Defendant and the public in a speedy trial. Time is thus excluded through October 1, 2021.

SO ORDERED.

**Dated: July 29, 2021
New York, NY**

/s/ Kimba M. Wood

**The Honorable Kimba M. Wood
United States District Judge**